

REFERENCE TITLE: insurance; wellness programs; discriminatory practices

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1098**

Introduced by  
Senator Allen

AN ACT

AMENDING SECTIONS 20-450 AND 20-2310, ARIZONA REVISED STATUTES; RELATING TO INSURANCE DISCRIMINATORY PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 20-450, Arizona Revised Statutes, is amended to  
3 read:

4           20-450. Practices not prohibited as discrimination or rebates  
5                 in life and disability insurance; wellness programs

6       A. Nothing in ~~sections~~ SECTION 20-448 or 20-449 shall be construed as  
7 including within the definition of discrimination or rebates any of the  
8 following practices:

9           1. In the case of any contract of life insurance or life annuity,  
10 paying bonuses to policyholders or otherwise abating their premiums in whole  
11 or part out of surplus accumulated from nonparticipating insurance, but any  
12 such bonuses or abatement of premiums shall be fair and equitable to  
13 policyholders and for the best interests of the insurer and its  
14 policyholders.

15           2. In the case of life insurance policies issued on the industrial  
16 debit plan, making allowance to policyholders who have continuously for a  
17 specified period made premium payments directly to an office of the insurer  
18 in an amount which fairly represents the saving in collection expense.

19           3. Readjustment of the rate of premium for a group insurance policy  
20 based on the loss or expense experience thereunder, at the end of the first  
21 or any subsequent policy year of insurance thereunder, which may be made  
22 retroactive only for such policy year.

23           4. Issuing life or disability policies on a salary savings or payroll  
24 deduction plan at a reduced rate commensurate with the savings made by the  
25 use of such plan.

26       B. SECTION 20-448 OR 20-452 DOES NOT PROHIBIT ANY PERSON FROM  
27 PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS  
28 PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL  
29 PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH  
30 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT.  
31 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT  
32 ACT.

33       Sec. 2. Section 20-2310, Arizona Revised Statutes, is amended to read:

34           20-2310. Discrimination prohibited; preexisting conditions;  
35                 wellness programs

36       A. Except as provided in subsection B of this section, a health  
37 benefits plan may not deny, limit or condition the coverage or benefits based  
38 on a person's health status-related factors or a lack of evidence of  
39 insurability.

40       B. A health benefits plan shall not exclude coverage for preexisting  
41 conditions, except that:

42           1. A health benefits plan may exclude coverage for preexisting  
43 conditions for a period of not more than twelve months or, in the case of a  
44 late enrollee, eighteen months. The exclusion of coverage does not apply to  
45 services that are furnished to newborns who were otherwise covered from the

1 time of their birth or to persons who satisfy the portability requirements  
2 under section 20-2308.

3 2. The accountable health plan shall reduce the period of any  
4 applicable preexisting condition exclusion by the aggregate of the periods of  
5 creditable coverage that apply to the individual.

6 C. A health benefits plan shall not include an affiliation period in a  
7 policy unless the affiliation period satisfies the requirements prescribed in  
8 45 Code of Federal Regulations section 146.119(b).

9 D. On request of a health benefits plan, a person who provides  
10 coverage during a period of continuous coverage with respect to a covered  
11 individual shall promptly disclose the coverage provided to the covered  
12 individual, the period of the coverage and the benefits provided under the  
13 coverage.

14 E. The accountable health plan shall calculate creditable coverage  
15 according to the following rules:

16 1. The accountable health plan shall give an individual credit for  
17 each day the individual was covered by creditable coverage.

18 2. The accountable health plan shall not count a period of creditable  
19 coverage for an individual enrolled in a health benefits plan if after the  
20 period of coverage and before the enrollment date there were sixty-three  
21 consecutive days during which the individual was not covered under any  
22 creditable coverage.

23 3. The accountable health plan shall give credit in the calculation of  
24 creditable coverage for any period that an individual is in a waiting period  
25 or an affiliation period for any health coverage.

26 4. The accountable health plan shall not count a period of creditable  
27 coverage with respect to enrollment of an individual if, after the most  
28 recent period of creditable coverage and before the enrollment date,  
29 sixty-three consecutive days lapse during all of which the individual was not  
30 covered under any creditable coverage. The accountable health plan shall not  
31 include in the determination of the period of continuous coverage described  
32 in this section any period that an individual is in a waiting period for  
33 health insurance coverage offered by a health care insurer, is in a waiting  
34 period for benefits under a health benefits plan offered by an accountable  
35 health plan or is in an affiliation period.

36 5. In determining the extent to which an individual has satisfied any  
37 portion of any applicable preexisting condition period the accountable health  
38 plan shall count a period of creditable coverage without regard to the  
39 specific benefits covered during that period.

40 6. An accountable health plan shall not impose any preexisting  
41 condition exclusion in the case of an individual who is covered under  
42 creditable coverage thirty-one days after the individual's date of birth.

43 7. An accountable health plan shall not impose any preexisting  
44 condition exclusion in the case of a child who is adopted or placed for

1 adoption before age eighteen and who is covered under creditable coverage  
2 thirty-one days after the adoption or placement for adoption.

3 F. An accountable health plan shall provide the certificate of  
4 creditable coverage described in subsection G of this section without charge  
5 for creditable coverage occurring after June 30, 1996 if the individual:

6 1. Ceases to be covered under a health benefits plan offered by an  
7 accountable health plan or otherwise becomes covered under a COBRA  
8 continuation provision. An individual who is covered by a health benefits  
9 plan that is offered by an accountable health plan, that is terminated or not  
10 renewed at the choice of the employer and where the replacement of the health  
11 benefits plan is without a break in coverage is not entitled to receive the  
12 certification prescribed in this paragraph but is instead entitled to receive  
13 the certifications prescribed in paragraphs 2 and 3 of this subsection.

14 2. Who was covered under a COBRA continuation provision ceases to be  
15 covered under the COBRA continuation provision.

16 3. Requests certification from the accountable health plan within  
17 twenty-four months after the coverage under a health benefits plan offered by  
18 an accountable health plan ceases.

19 G. The certificate of creditable coverage provided by an accountable  
20 health plan is a written certification of:

21 1. The period of creditable coverage of the individual under the  
22 accountable health plan and any applicable coverage under a COBRA  
23 continuation provision.

24 2. Any applicable waiting period or affiliation period imposed on an  
25 individual for any coverage under the accountable health plan.

26 H. Any accountable health plan that issues health benefits plans in  
27 this state, as applicable, shall issue and accept a written certificate of  
28 creditable coverage of the individual that contains at least the following  
29 information:

30 1. The date that the certificate is issued.

31 2. The name of the individual or dependent for whom the certificate  
32 applies and any other information that is necessary to allow the issuer  
33 providing the coverage specified in the certificate to identify the  
34 individual, including the individual's identification number under the policy  
35 and the name of the policyholder if the certificate is for or includes a  
36 dependent.

37 3. The name, address and telephone number of the issuer providing the  
38 certificate.

39 4. The telephone number to call for further information regarding the  
40 certificate.

41 5. One of the following:

42 (a) A statement that the individual has at least eighteen months of  
43 creditable coverage. For THE purposes of this subdivision, "eighteen months"  
44 means five hundred forty-six days.

1                 (b) Both the date that the individual first sought coverage, as  
2 evidenced by a substantially complete application, and the date that  
3 creditable coverage began.

4                 6. The date creditable coverage ended, unless the certificate  
5 indicates that creditable coverage is continuing from the date of the  
6 certificate.

7                 7. The consumer assistance telephone number for the department.

8                 8. The following statement in at least fourteen point type:

9    Important notice!

10                 Keep this certificate with your important personal records to  
11 protect your rights under the health insurance portability and  
12 accountability act of 1996 ("HIPAA"). This certificate is proof  
13 of your prior health insurance coverage. You may need to show  
14 this certificate to have a guaranteed right to buy new health  
15 insurance ("Guaranteed issue"). This certificate may also help  
16 you avoid waiting periods or exclusions for preexisting  
17 conditions. Under HIPAA, these rights are guaranteed only for a  
18 very short time period. After your group coverage ends, you  
19 must apply for new coverage within 63 days to be protected by  
20 HIPAA. If you have questions, call the Arizona department of  
21 insurance.

22                 I. An accountable health plan may provide any certification pursuant  
23 to subsection F, paragraph 1 of this section at the same time the accountable  
24 health plan sends the notice required by the applicable COBRA continuation  
25 provision.

26                 J. An accountable health plan has satisfied the certification  
27 requirement under this section if the accountable health plan offering the  
28 health benefits plan provides the prescribed certificate in accordance with  
29 this section within thirty days after the event that triggered the issuance  
30 of the certification.

31                 K. If an accountable health plan imposes a waiting period for coverage  
32 of preexisting conditions, within a reasonable period of time after receiving  
33 an individual's proof of creditable coverage and not later than the date by  
34 which the individual must select an insurance plan, the accountable health  
35 plan shall give the individual written disclosure of the accountable health  
36 plan's determination regarding any preexisting condition exclusion period  
37 that applies to that individual. The disclosure shall include all of the  
38 following information:

39                 1. The period of creditable coverage allowed toward the waiting period  
40 for coverage of preexisting conditions.

41                 2. The basis for the accountable health plan's determination and the  
42 source and substance of any information on which the accountable health plan  
43 has relied.

1       3. A statement of any right the individual may have to present  
2 additional evidence of creditable coverage and to appeal the accountable  
3 health plan's determination, including an explanation of any procedures for  
4 submission and appeal.

5       L. Periods of creditable coverage for an individual are established by  
6 presentation of the written certifications described in this section and  
7 section 20-1379. In addition to written certification of the period of  
8 creditable coverage as described in this section, individuals may establish  
9 creditable coverage through the presentation of documents or other means. In  
10 order to make a determination that is based on the relevant facts and  
11 circumstances of the amount of creditable coverage that an individual has, an  
12 accountable health plan shall take into account all information that the plan  
13 obtains or that is presented to the plan on behalf of the individual.

14      M. The department may enforce and monitor the issuance and delivery of  
15 the notices and certificates by accountable health plans and insurers as  
16 required by this section, the health insurance portability and accountability  
17 act of 1996 (P.L. 104-191; 110 Stat. 1936) and any federal regulations  
18 adopted to implement the health insurance portability and accountability act  
19 of 1996.

20      N. THIS SECTION DOES NOT PROHIBIT ANY HEALTH BENEFITS PLAN FROM  
21 PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS  
22 PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL  
23 PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH  
24 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT.  
25 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT  
26 ACT.